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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes, III, Special Circuit Court Judge

RECEIVED

JAN 03 2018

Civil Action No. 2016-CP-07-1475

Appellate Case No. 2017-0001761

SC Court of Appeals

SHAMSY MADANI.....Respondent,

v.

RICKEY PHELPS AND CHRISTY PHELPS:.....Appellants.

MOTION TO DISMISS APPELLANTS' APPEAL OR IN THE ALTERNATIVE,
MOTION FOR LEAVE FOR RESPONDENT TO FILE DESIGNATION OF MATTER
AND FINAL BRIEF

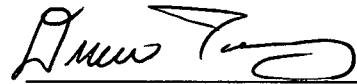
Appellants have ignored the South Carolina Appellate Court Rules. Respondent is in receipt of two purported filings by Appellants. The first being their Notice of Appeal on August 22, 2017 and the second being their Final Brief, Motion to Amend the Designation of Matter, and Record on Appeal purportedly filed on November 16, 2017, and received by Respondent on December 4, 2017.

Rule 208(a)(1), SCACR, states in pertinent part: "(1) *Brief of Appellant.* Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service." Appellants have failed to file any Initial Brief upon Respondent.

Rule 209(a), SCACR, states in part that "at the same time a party serves his initial brief under Rule 208...he shall also serve on all parties to the appeal a Designation of Matter..." Appellants did not file their Designation of Matter contemporaneously with their Initial Brief, because, presumably, Appellants never filed an Initial Brief.

Appellants' only filing in this appeal (other than the notice of appeal) is the aforementioned Final Brief received by Respondent on December 4, 2017. Pursuant to Rule 208(4), SCACR, Respondent requests that Appellants' appeal be dismissed.

Alternatively, Respondent requests she is allowed to now file her Final Brief and Designation of Matter, and that the Record on Appeal be Amended.



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Attorney for Respondent

Other Counsel of Record:
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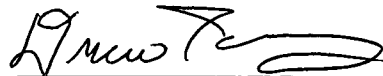
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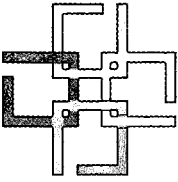
PROOF OF SERVICE

This is to certify that I have on this 28th day of December, 2017 delivered a true and correct copy of Respondent's Motion to Dismiss Appellants' Appeal or in the Alternative Motion for Leave for Respondent to File Her Final Brief and Designation of Matter and Certificate of Service in the above captioned case by depositing a copy of the same in the United States Mail with correct postage to ensure delivery to:

Chris S. Truluck
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Attorney for Appellants



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December 28, 2017

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
The South Carolina Court of Appeals
1015 Sumter Street (29201)
Post Office Box 11629
Columbia, SC 29211

RECEIVED
JAN 03 2018
SC Court of Appeals

RE: *Shamsy Madani v. Rickey Phelps and Christy Phelps*
Case No.: 2017-001761

Dear Ms. Kitchings:

Please find enclosed the original and six (6) copies of Respondent's Motion to Dismiss Appellant's Appeal or in the Alternative Motion for Leave to File Final Brief and Designation of Matter, regarding the above referenced matter. I would appreciate if you would please file the original and return the clocked copies in the enclosed self-addressed stamped envelope.

If you have any questions, please feel free to contact me. Thank you in advance for your assistance with this matter. I remain,

Very truly yours,

MULLEN WYLIE, LLC


Andrew J. Toney

Encl.

cc: Chris S. Truluck, Esq.

George E. Mullen

Robert L. Wylie, IV

Francis E. Grimball

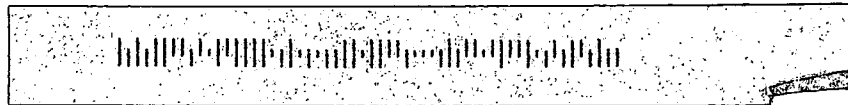
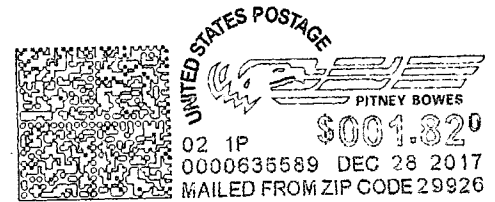
James E. Lady

Amy W. Wates

Allison B. Thompson

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